

**In re: SOUND COMMODITIES, INC.
PACA Docket No. 01-0031.
Decision Without Hearing by Reason of Default.
Filed April 4, 2002.**

PACA – Default – Payment, failure to make full, prompt.

Ann K. Parnes, for Complainant,
Respondent, Pro se.

Decision issued by James W. Hunt, Chief Administrative Law Judge.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) hereinafter referred to as "the Act," instituted by a complaint filed on September 13, 2001, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleges that during the period September 2, 1998, through August 28, 1999, Sound Commodities, Inc. (hereinafter "Respondent"), failed to make full payment promptly to 15 sellers of the agreed purchase prices in the total amount of \$707,373.62 for 296 lots of perishable agricultural commodities that it received, accepted, and sold in interstate commerce. A distribution of trust assets in 2000 reduced the amount that remains past due and unpaid by Respondent to \$601,786.97.

A copy of the complaint was served upon Respondent by certified mail on September 24, 2001. Respondent did not file an answer. The time for filing an answer having run, and upon Complainant's motion for the issuance of a Decision without Hearing by Reason of Default, the following Decision and Order is issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

1. Respondent, Sound Commodities, Inc., is a corporation organized and existing under the laws of the state of Washington. Respondent's business mailing address is 218 Main Street, PMB 516, Kirkland, Washington 98033.

2. At all times material herein, Respondent was licensed under the Act. License number 890812 was issued to Respondent on March 6, 1989. This license was suspended on September 28, 1999, for failing to pay a reparation order pursuant to Section 7(d) of the Act (7 U.S.C. §499g(d)). Subsequently, eight additional reparation orders were issued against Respondent. These nine orders remain unsatisfied. Respondent's license terminated on March 6, 2000, pursuant to Section

4(a) of the PACA (7 U.S.C. §499d(a)), when Respondent failed to pay the required annual renewal fee.

3. During the period September 2, 1998, through August 28, 1999, Respondent failed to make full payment promptly to 15 sellers for 296 lots of fruits and vegetables that it received, accepted, and sold in interstate commerce in the total amount of \$707,373.62. In 2000, a distribution of trust assets totaling \$105,586.65 was made to 11 PACA claimants who protected their trust rights under Section 5(c)(2) of the Act (7 U.S.C. §499e(c)(2)). This distribution reduced the amount that remains past due and unpaid for purchases made by Respondent in the course of interstate commerce to \$601,786.97.

Conclusions

Respondent's failure to make full payment promptly with respect to the 296 transactions set forth in Finding of Fact 3 above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

Respondent has committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. §499b(4)), and the facts and circumstances of the violations shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceeding within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§1.139 and 1.145).

Copies hereof shall be served upon parties.

[Note: This Decision and Order became final July 2, 2002. - Editor]
